



Environment Act 1995

1995 CHAPTER 25

PART V

MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

Hedgerows etc.

97 Hedgerows.

- (1) The appropriate Ministers may by regulations make provision for, or in connection with, the protection of important hedgerows in England or Wales.
- (2) The question whether a hedgerow is or is not “important” for the purposes of this section shall be determined in accordance with prescribed criteria.
- (3) For the purpose of facilitating the protection of important hedgerows, regulations under subsection (1) above may also make provision in relation to other hedgerows in England or Wales.
- (4) Without prejudice to the generality of subsections (1) to (3) above, regulations under subsection (1) above may provide for the application (with or without modifications) of, or include provision comparable to, any provision contained in the planning Acts and may, in particular, make provision—
 - (a) prohibiting, or for prohibiting, the removal of, or the carrying out of prescribed acts in relation to, a hedgerow except in prescribed cases;
 - (b) for or with respect to appeals against determinations or decisions made, or notices given or served, under or by virtue of the regulations, including provision authorising or requiring any body or person to whom an appeal lies to consult prescribed persons with respect to the appeal in prescribed cases;
 - (c) for a person who contravenes, or fails to comply with, any prescribed provision of the regulations to be guilty of an offence;
 - (d) for a person guilty of an offence by virtue of paragraph (c) above which consists of the removal, in contravention of the regulations, of a hedgerow of a description prescribed for the purposes of this paragraph to be liable—

Status: Point in time view as at 01/07/1999.

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- (i) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (ii) on conviction on indictment, to a fine;
 - (e) for a person guilty of any other offence by virtue of paragraph (c) above to be liable on summary conviction to a fine not exceeding such level on the standard scale as may be prescribed.
- (5) Regulations under this section may make different provision for different cases, including different provision in relation to different descriptions of hedgerow, different descriptions of person, different areas or localities or different circumstances.
- (6) Before making any regulations under this section the appropriate Ministers shall consult—
- (a) such bodies appearing to them to be representative of persons whose business interests are likely to be affected by the proposed regulations,
 - (b) such bodies appearing to them to be representative of the interests of owners or occupiers of land,
 - (c) such bodies appearing to them to be representative of the interests of local authorities,
 - (d) such bodies whose statutory functions include the provision to Ministers of the Crown of advice concerning matters relating to environmental conservation, and
 - (e) such bodies not falling within paragraphs (a) to (d) above,
- as the appropriate Ministers may consider appropriate.
- (7) No statutory instrument containing regulations under this section shall be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) In this section—
- “the appropriate Ministers” means—
 - (a) as respects England, the Secretary of State and the Minister of Agriculture, Fisheries and Food;
 - (b) as respects Wales, the Secretary of State;
 - “environmental conservation” means conservation—
 - (a) of the natural beauty or amenity, or flora or fauna, of England or Wales; or
 - (b) of features of archaeological or historic interest in England or Wales;
 - “hedgerow” includes any stretch of hedgerow;
 - “local authority” means—
 - (a) the council of a county, county borough, district, London borough, parish or community;
 - (b) the Common Council of the City of London;
 - (c) the Council of the Isles of Scilly;
 - “the planning Acts” has the same meaning as it has in the ^{M1}Town and Country Planning Act 1990 by virtue of section 336(1) of that Act;
 - “prescribed” means specified, or of a description specified, in regulations;
 - “regulations” means regulations made by statutory instrument;
 - “remove”, in relation to a hedgerow, means uproot or otherwise destroy, and cognate expressions shall be construed accordingly;

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“statutory functions” means functions conferred or imposed by or under any enactment.

- (9) Any reference in this section to removing, or carrying out an act in relation to, a hedgerow includes a reference to causing or permitting another to remove, or (as the case may be) carry out an act in relation to, a hedgerow.

Modifications etc. (not altering text)

C1 S. 97 explained (1.6.1997) by S.I. 1997/1160, reg. 4

Marginal Citations

M1 1990 c. 8.

98 Grants for purposes conducive to conservation.

- (1) The appropriate Minister, with the consent of the Treasury [^{F1}as respects England and Wales], may by regulations make provision for and in connection with the making of grants to persons who do, or who undertake to that Minister that they will do, anything which in the opinion of that Minister is conducive to—
- (a) the conservation or enhancement of the natural beauty or amenity of the countryside (including its flora and fauna and geological and physiographical features) or of any features of archaeological interest there; or
 - (b) the promotion of the enjoyment of the countryside by the public.
- (2) Regulations under this section may—
- (a) make different provision for different cases or classes of case or for different areas;
 - (b) provide for grants to be made subject to conditions;
 - (c) confer power on the appropriate Minister to modify, in any particular case, the conditions to which a grant would otherwise be subject, if he is satisfied that the making of that grant, subject to the conditions as so modified, is consistent with the purposes for which the regulations are made;
 - (d) make provision for or in connection with the recovery of any sums paid by way of grant, or the withholding of any further payments of grant, in cases where the applicant for the grant—
 - (i) in making the application, or in furnishing any information in connection with the application, has made a statement which was false or misleading in a material respect;
 - (ii) has failed to do something which he undertook to do if the grant was made; or
 - (iii) is in breach of any condition subject to which the grant was made.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment pursuant to a resolution of either House of Parliament.
- (4) The powers conferred by this section are in addition to any other powers of the Secretary of State or the Minister of Agriculture, Fisheries and Food.
- (5) In this section “the appropriate Minister” means—
- (a) as respects England, the Minister of Agriculture, Fisheries and Food;

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- (b) as respects Wales, the Secretary of State;
- (c) as respects Scotland, the Secretary of State.

Textual Amendments

F1 Words in s. 98(1) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 120(7); S.I. 1998/3178, art. 3

Modifications etc. (not altering text)

C2 S. 98 extended (to Isles of Scilly) (1.5.1996) by S.I. 1996/1030, art. 3

99 Consultation before making or modifying certain subordinate legislation for England.

- (1) The Minister shall consult the bodies and persons specified in subsection (2) below before—
 - (a) making any legislation to which this section applies (other than a modification of any such legislation);
 - (b) modifying any such legislation in a way which changes the ^{M2}purpose of the ^{M3}legislation in question; or
 - (c) modifying any such legislation in a way which modifies, in a respect which he considers material, any conditions subject to which grants or other payments are payable under that legislation.
- (2) The bodies and persons mentioned in subsection (1) above are—
 - (a) the Secretary of State;
 - (b) the [^{F2}Countryside Agency];
 - (c) the Nature Conservancy Council for England;
 - (d) the Historic Buildings and Monuments Commission for England.
- (3) The legislation to which this section applies is—
 - (a) any order under section 18 of the ^{M4}Agriculture Act 1986 (orders establishing environmentally sensitive areas);
 - (b) any regulations under section 98 above;
 - (c) any statutory instrument specified in subsection (4) below;
 - (d) any other statutory instrument which concerns the ^{M5}management of land and whose primary purpose is the ^{M6}promotion of—
 - (i) the conservation or enhancement of the ^{M7}natural beauty or amenity of the ^{M8}countryside (including its flora and fauna and geological and physiographical features) or of any features of archaeological interest there; or
 - (ii) the enjoyment of the ^{M9}countryside by the ^{M10}public.
- (4) The statutory instruments mentioned in subsection (3)(c) above are—
 - (a) the Farm Woodlands Premium Scheme 1992;
 - (b) the Habitat (Water Fringe) Regulations 1994;
 - (c) the Habitat (Former Set-Aside Land) Regulations 1994;
 - (d) the Habitat (Salt Marsh) Regulations 1994;
 - (e) the Organic Farming (Aid) Regulations 1994;

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- (f) the Nitrate Sensitive Areas Regulations 1994;
- (g) the Countryside Access Regulations 1994;
- (h) the Moorland (Livestock Extensification) Regulations 1995.

(5) In this section, “the Minister” means the Minister of Agriculture, Fisheries and Food.

(6) This section applies in relation to any legislation only so far as relating to land in England.

Textual Amendments

F2 Words in s. 99(2) substituted (20.2.1999) by S.I. 1999/416, art. 3, Sch. 1 para. 17(5)

Modifications etc. (not altering text)

C3 S. 99 extended (to Isles of Scilly) (1.5.1996) by S.I. 1996/1030, art. 3

Marginal Citations

M2 S.I. 1995/904.
M3 S.I. 1994/2349.
M4 1986 c. 49.
M5 S.I. 1994/1729.
M6 S.I. 1994/1721.
M7 S.I. 1994/1293.
M8 S.I. 1994/1292.
M9 S.I. 1994/1291.
M10 S.I. 1992/905.

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